

canvass

Donna Jill Johnson [circuitclerk@lauderdalecounty.org]

Sent: Thursday, July 03, 2014 10:16 AM**To:** Donna Jill Johnson [circuitclerk@lauderdalecounty.org]**Attachments:** AG Opinion Youngman.rtf (90 KB) ; AG opinion, Smith.rtf (96 KB) ; Section 23-15-911 MCA.rtf (470 KB)

We appreciate the prompt response from Kim as our emails and phones are again burning up hot and heavy this morning....

dj

-----Original Message-----

From: Kim Turner [mailto:Kim.Turner@sos.ms.gov]

Sent: Thursday, July 03, 2014 10:16 AM

To: Donna Jill Johnson

Cc: Hawley Rae Robertson

Subject: RE: canvass

This letter is a request for a ballot box examination, limited solely to the boxes from the Republican Primary Runoff Election on the 24th. Note, the letter is limited to the US Senate race; thus, the boxes from the Congressional 3 Democratic Primary Runoff Election are NOT subject to this examination and the boxes from the Primary Election on the 3rd are also NOT subject to this examination.

Section 23-15-911, Miss. Code Ann., requires three (3) days written notice be served upon the opposing candidate in order for a ballot box examination to take place. Even though Mr. Tyner's letter states "we have complied with all required notice provisions of MS Code 23-15-911," you should reply to Mr. Tyner's letter by email or fax and specifically ask him for a copy of the written notice provided to Senator Cochran and confirmation that Senator Cochran was actually served with that written notice before proceeding with the examination on Monday.

A ballot box examination is different from a public records request. An examination is conducted by the candidate and/or his representative. The statute itself specifically states "at any time within twelve (12) days after the canvass . . . any candidate or his representative authorized in writing by him shall have the right of full examination of said box and its contents." The number of individuals who may be present during the examination is therefore limited, meaning you should not have a roomful of people in your office. Though Senator Cochran must be provided 3 days advance written notice of the examination, neither he nor his representative must be present during the examination. It is solely a notice requirement and is not an invitation for Senator Cochran's campaign to attend.

You or a deputy clerk must keep watch during the ballot box examination, which must be completed within that twelve (12) day period of time following your county's certification of election results.

Finally, there is to be NO DUPLICATION of the contents of the ballot boxes. I have attached 2 opinions of the Attorney General which specifically preclude the copying of the contents of the ballot boxes. This means your office makes no copies, and representatives of McDaniel's campaign makes no copies. This also means the McDaniel campaign CANNOT bring in a copier and additional personnel to make copies . . . remember, it is the act of copying

which is prohibited.

If anything I have said herein is later clarified or contradicted by the AG's Office, then follow the advice and instruction of the Attorney General.

Kimberly P. Turner, Esq.
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From: Donna Jill Johnson [<mailto:circuitclerk@lauderdalecounty.org>]
Sent: Thursday, July 03, 2014 9:23 AM
To: Donna Jill Johnson
Subject: canvass

What are we missing?? Just got another fax this morning , dated July 2, assuming all 82 county's received the same fax, requesting to view and duplicate on Monday, July 7. We had both groups represented in our office from 10:15Am until 6pm just yesterday. We had 7 possible cross-over out of 11,997 voters, which we pointed out on the onset, upon their arrival. Again, what are we missing ??????

dj

The information contained in this email is not an official opinion. You should not consider anything in this email from the Mississippi Secretary of State's Office to be legal advice.

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